

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

SEP 16 1982

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

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 In the Matter of the Petition of :
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 INTERNATIONAL BROTHERHOOD :
 OF ELECTRICAL WORKERS :
 LOCAL UNION NO. 953 : Case XXI
 : No. 29313
 To Initiate Mediation-Arbitration : MED/ARB-1564
 Between Said Petitioner and : Decision No. 19506-A
 :
 CITY OF RICE LAKE :
 (ELECTRIC UTILITY) :
 :
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APPEARANCES

Stephen L. Weld, Mulcahy & Wherry, S.C., on behalf of the City

Everett J. Bailey, International Representative, on behalf of the Union

On April 8, 1982 the WERC appointed the undersigned as Mediator-Arbitrator, pursuant to Section 111.70(4)(cm)6.b. of the Municipal Employment Relations Act in the above dispute. Pursuant to statutory responsibilities the undersigned conducted mediation proceedings between the parties on June 7, 1982. Said mediation effort failed to result in voluntary resolution of the dispute. The matter was thereafter presented to the undersigned in an arbitration hearing conducted on the same date for final and binding determination. Post hearing exhibits and briefs were filed by both parties by July 12, 1982. Based upon a review of the evidence and arguments and utilizing the criteria set forth in Section 111.70(4)(cm), Wis. Stats., the undersigned renders the following award.

ISSUE

The only issue in dispute is the wage increase for 1982. The final offer of the City is 10.8% effective January 1, 1982. The final offer of the Union is a 9% increase effective January 1, 1982, an additional 3% increase effective March 1, 1982, and an additional 3% increase effective July 1, 1982. The foregoing percentage increases are based upon the rates in effect at the end of the 1981 calendar year.

POSITION OF THE PARTIES

Employer

The City's final offer is clearly more consistent with the pattern of voluntary settlements among the City's represented employees. This established pattern includes a 10.8% increase for the 1982 year for Firefighter, Police Department employees and Street Department employees.

On the other hand, the Union has offered no credible evidence to support a demand greatly exceeding these voluntarily accepted increases of other Rice Lake municipal employees. The Union's final offer of 15.15% (year end to year end) is an attempt to misuse the arbitration process to obtain an increase which is inconsistent with any settlement which would have been mutually agreed upon by the parties. In fact, such an award would be disruptive of the City's relationship with the other municipal employees.

In a recent arbitration award involving the City of Milwaukee, Arbitrator Rice noted the departure from a pattern of settlement with other bargaining units would do violence to the bargaining process between the employer and the unions with which it bargains. 1/

1/ WERC Decision No. 17197 (1980).

In its exhibits, the City has demonstrated the cost impact of the final offers in several ways in an attempt to address the parties' disagreement regarding the method of costing the proposals when the wage increase for the year is split into two or more adjustments. The Union uses the 1981 year end rates as the base from which their calculations follows. However, the Employer asserts that the yearly rates should be annualized as dictated by both common sense and arbitral precedent.

The City also notes that this Arbitrator has advocated use of the average salary in a case involving the School District of Greendale in 1981.

Further support for the use of the average salary is demonstrated by the fact that the taxable earnings of the employees in 1981 were a result of the wages received from January through December - not simply their wage level at the end of the year. Using the year end rate artificially inflates the base figure and does not reflect the real impact of the respective offers.

The City has also looked at the fringe benefits of all of its employees to determine the fairness of its offer. This comparison reflects a relatively uniform relationship between the City and all of its employees. Acceptance of the Union's offer would disrupt this relationship and would alter the historical pattern that has been voluntarily established by the parties.

Since the Statute requires the Arbitrator to give weight to comparables, the City has selected a group of utilities which are similarly situated to help determine the reasonableness of the parties' offers. This comparable pool provides the Arbitrator a meaningful basis for analysis because it is based on factors of geographic proximity, population, equalized valuation, full value tax rates, continuity and stability of employment, revenues, and average number of customers.

Utilizing these criteria the appropriate comparables should be Barron, Bloomer, Cadott, Cornell, Cumberland, Medford, New Richmond, River Falls, Spooner, and Stratford.

It is pointed out that the Union's comparables are not supported by any statistical data which would indicate the basis of their selection. Therefore, the Arbitrator should reject them - with the exceptions of Medford and Spooner, two communities selected and supported by the Employer's data.

The City takes particular exception to the use of comparable cities used by the Union which are not proximate geographically to the City of Rice Lake. The importance of this factor was emphasized by Arbitrator Imes in Herman Consolidated District #22 ^{2/} in which she recognized that salary compensation, as well as fringe benefits and work load are functions of the political, social, and economic demands of the area.

The City therefore, maintains that the Union's comparables which include large municipalities, electric cooperatives and their corresponding higher levels of compensation cannot fairly be compared with the City of Rice Lake. Moreover, no data has been presented to show that the Union's comparables are similar in size. Finally, utilization of the Union's comparables would constitute a rejection of the historical bargaining process used by the parties to establish an equitable level of compensation.

Based on the foregoing criteria, it is evident that the City's comparables are the most appropriate choice for comparing wages, hours, and conditions of employment of the employees of the City of Rice Lake Electrical Utility.

Using these comparables, the City asserts that its final offer is clearly the more reasonable. First of all, the City's final offer maintains or improves Rice Lake's comparative status among comparable

^{2/} Decision No. 18037-A (5/81).

utility employees. It is also apparent from the data presented that there is little difference in the comparative ranking between the City's and Union's final offers. Thus, no rational explanation based upon the Utility's ranking among comparables exists for the further wage increase proposed by the Union.

It is further maintained that the City's offer is more reasonable when compared with the dollar and percent increases that have been agreed upon in the comparable utilities. The data presented demonstrates that either proposal will result in above average dollar and percent increases in Rice Lake. It is also obvious that the Union demands are not consistent with the increases agreed upon in the comparable utilities. The Union proposal would result in hourly increases exceeding the average by \$.32 to \$.59 and percentage increases exceeding the average by 7.5%. On the other hand, the City's offer more closely matches the average dollar and percent increases received in comparable utilities.

The City also asserts that the Union cannot justify its excessive wage demands on the basis of "catch-up". Prior arbitration awards have held that the evidence in such proceedings must clearly establish entitlement to catch-up, including historical data showing that the employer had slipped from a higher ranking. ^{3/} The Union has failed to establish either of the above factors.

The City's offer is also more reasonable when considering the total compensation received by Rice Lake utility employees. Prior arbitration awards have recognized the merits of total compensation comparisons. For Rice Lake, the statistics clearly indicate that its municipal employees enjoy highly competitive benefits in the areas of longevity, health insurance, life insurance and retirement. Although Rice Lake does not provide dental insurance, only one of the comparables does. Therefore, the City contends that the total package ranks very favorably with comparable cities in this regard.

Conversely, the Union's demand is unnecessary, unreasonable, and totally without justification in view of overall compensation received by utility employees.

The cost of living is another factor to be examined by the Arbitrator. Here the City has used several indices to measure not only the changes in prices but consumer expenditure patterns as well. The resulting analysis reveals that none of the economic indicators cited by either party can be relied upon to support the 15.15% increase proposed by the Union.

Finally, the City maintains that the national economic experience indicates that very few works can remain insulated from an economic downturn such as we are currently experiencing. The news media has chronicled significant wage concessions by workers in Wisconsin as well as across the country. These are not predictions or mere opinions but the hard facts of economic life today.

In this regard, the all-industries median first year wage increase was 9.0% for the first quarter of 1982. The lowest was a wage freeze in the trucking industry; the highest was 10% in the printing industry. Either of the parties' offers in this dispute far exceeds these figures, and the City submits that Rice Lake employees can expect no greater protection from inflation than is received by all other American workers.

Union

The Union urges the Arbitrator to accept its offer which represents an annualized increase of 12.4% or actually 1.6% more than the increase proposed by the Employer. The hearing established the fact that the parties have been very close to settlement, and the only remaining issue is the additional compensation to which electrical workers are entitled.

Employees in this Department serve a four-year apprenticeship and are

^{3/} Marathon County, Decision No. 18615 (1981); Herman Consolidated District No. 22, Decision No. 18037-A(1981).

engaged in particularly hazardous work, often during the most adverse of conditions. Furthermore, these employees are skilled workers and are thus entitled to an appropriate wage differential.

Data was also introduced at the hearing which referred to wage cuts, plant closings, concession bargaining, etc. The Union points out that none of this data represented utilities. Furthermore, it is accepted that utilities respond slowly to economic downturns, thereby encountering a softening of wage settlements at a later date.

Moreover, it is important to view the wage concessions by the U.A.W. within the framework of the conditions placed upon the employers (Ford, GM and Chrysler).

First, the employer must make a case for the need for concession bargaining, including the presentation of financial data by experts at the bargaining table.

It was also demonstrated that the required sacrifice would be shared by non-bargaining unit employees and high management personnel as well. In essence, there must be equality of sacrifice. The level of participation in such concession bargaining goes further to include dealers, banks, suppliers and stockholders. Clearly, the workers should not be expected to bear the economic burden alone.

Job security was also a prime concern in the bargain, with guarantees for furloughed employees, new training and retraining programs, supplemental unemployment provisions and early retirement benefits. For those who remained employed, job security was also increased with a two-year moratorium on job closings, and advance notice of possible plant closings.

In sum, the risks and responsibilities were to be shared by labor and management. A contract reopener clause was included, and the parties agreed to cooperate in their pursuit of favorable legislation.

The foregoing illustrates the comprehensive nature of effective concession bargaining. Without these components, concession bargaining is unthinkable.

The effect of the cost of living on a workman's dollar, even over a one-year period can be dramatic. Over the life of the agreement, the Rice Lake Lineman's buying power continually eroded from \$7.88 to \$7.54 in spite of cost-of-living rate adjustments during the period. The result is buying power (or real wages) which are far below the negotiated wage of \$8.20. In fact, the employees' buying power was 4.5% below the actual wage at the beginning of the contract year, but declined to 8.0% below the negotiated wage by the end of the contract year.

The Union further cites the inferior position of Rice Lake Utility rates for Linemen when compared to other Wisconsin employers. Not only is Rice Lake lower than the selected group of comparable utilities, but is also lower than the Wisconsin average for municipal utilities organized under IBEW and for those nationwide.

Data was also presented for other job titles within the IBEW bargaining unit such as Line Crew Foreman, Electric Meterman and Electric Grouddman. These were also compared to surrounding Wisconsin utilities which vividly portrayed the inferior status of the Rice Lake employees. A comparison with Rural Electric Cooperatives reveals a similar wage disparity. In sum, the case is clear that Rice Lake is in need of catch-up, and the Union proposal is justified for that reason as well.

In conclusion, the evidence submitted establishes the fact that the Skilled Trades nationwide receive special recognition for the acquisition and maintenance of their expertise. The components essential for concession bargaining have not been demonstrated by the City of Rice Lake, and the comparables clearly indicate that Rice Lake holds an inferior position justifying a catch-up proposal.

DISCUSSION

Essentially resolution of the instant dispute depends upon the answer to two questions:

1. With what employees should be the employees involved herein be compared?

2. Are the wages of the employees in the bargaining unit sufficiently non-comparable to justify a significantly larger increase than the City has granted to its other employees?

On the issue of comparability, the record is woefully insufficient. Although it has been asserted by the Union that the employees should be compared with represented employees statewide in municipal electric utilities, electric cooperatives, and with the employees of Northern State Power Company, insufficient evidence has been introduced to allow the undersigned to determine whether most of these employer-employee relationships are in fact comparable to the relationship present herein.

Based upon a somewhat incomplete record however the undersigned has selected as comparables most of the municipal electric utilities proposed by the parties located in the western half of the state and which are not of significantly different size, at least to the extent that the record reflects such differences. Based upon the foregoing criteria, the undersigned has selected as comparables the following municipal electric utilities: Black River Falls, Medford, Spooner, Richland Center, Wisconsin Rapids, Barron, Bloomer, Cumberland, New Richmond, and River Falls.

Since it is undisputed that traditionally journeyman lineman wage rates are utilized in comparing employee wages in units of this type, the following chart presents a comparative analysis of lineman wage rates among the comparables which have been selected herein.

LINEMAN RATES (1982)

| | Hourly Rate | Effective Date | % Increase | \$ Increase Per Hour |
|-------------------|-------------|----------------|------------|----------------------|
| Black River Falls | 10.38 | (1/1/82) | 8.9 | .85 |
| Medford | 10.51 | 11/1/81 | 8.4* | .88* |
| Spooner | 10.50 | 3/16/82 | 7.7 | .75 |
| Richland Center | 8.43 | 1/1/81 | 9. | N/A |
| Wisconsin Rapids | 11.94 | 1/1/82 | 10. | 1.09 |
| Barron | 8.34 | N/A | 5. | .40 |
| Bloomer | 7.22 | 1/1/82 | | |
| | 7.43 | 7/1/82 | | |
| | 7.33* | | 6.1* | .45* |
| Cumberland | 8.37 | N/A | 8. | .62 |
| New Richmond | 11.77 | N/A | 8.8 | .95 |
| River Falls | 10.49 | N/A | 7.9 | .83 |
| Average | 9.81 | N/A | 8. | .68 |
| Rice Lake | | | | |
| Employer Offer | 9.09 | 1/1/82 | 11.9* | .97* |
| Union Offer | 8.94 | 1/1/82 | 14.2* | 1.15* |
| | 9.19 | 3/1/82 | | |
| | 9.44 | 7/1/82 | | |
| | 9.27* | | | |
| +/- Average | | | | |
| Employer Offer | - .72 | | 2.9 | .29 |
| Union Offer | - .54 | | 6.2 | .47 |
| Rank Among 11 | | | | |
| Employer Offer | 7 | | 1 | 2 |
| Union Offer | 7 | | 1 | 1 |

*Based upon actual annual wages

The data in the above chart is incomplete at best, since data pertaining to longevity rates and the dates several wage rates were placed into effect was not in the record.

However, based upon the data which has been presented, it would appear that while both parties' wage proposals are considerably below the comparable average, the wage rates contained in both proposals cannot be fairly characterized as non-comparable, since under either proposal, the lineman's wage rate would rank seventh out of eleven comparable municipal utilities.

With respect to the relative size of the proposed increase, in percentage terms both proposals rank first among the comparables, while in terms of dollars, the Union's proposal ranks first while the City's ranks second. These rankings are based upon actual annual earnings where the record indicates that wage rates change during the term of a collective bargaining agreement, the terms of which coincide with a calendar year. In this regard, it is the undersigned's opinion that actual earnings provide the fairest basis for analyzing the value of proposed increases to employees and the cost of same to employers.

Based upon the above analysis it would appear that the increases proposed by both parties are relatively superior to those which have been granted in comparable employer-employee relationships; that the City's proposal in this regard is slightly more in accord with the comparable norm than is the Union's; that while both of the proposed wage rates are below the comparable average, they both fall well within the range of rates which exist in comparable relationships; and that based upon all of the foregoing, overall, the City's proposal is the more comparable of the two submitted herein.

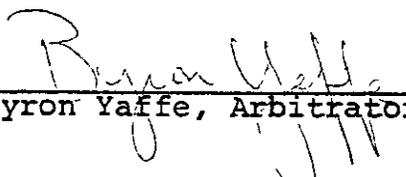
In light of the above conclusion, the undersigned concludes that there is not a sufficient evidentiary basis in the record to justify the significant departure from the pattern of settlements which have occurred in comparable employer-employee relationships and in the relationship between the City and its other employees which the Union has proposed.

Accordingly, based upon all of the foregoing, the undersigned renders the following

ARBITRATION AWARD

The final offer submitted to the City shall be incorporated into the parties' 1982 collective bargaining agreement.

Dated this 14th day of September, 1982 at Madison, Wisconsin.


Byron Yaffe, Arbitrator